

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

FESTIVAL FUN PARKS, LLC,

Plaintiff,

v.

LEXINGTON INSURANCE COMPANY,

Defendant.

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Civil Action No. 14-1255

Judge Nora Barry Fischer

ORDER OF COURT

AND NOW, this 22nd day of September, 2014, upon consideration of the Notice of Removal filed by Defendant Lexington Insurance Company, (Docket No. [1]), and attachments including Plaintiff's Complaint, Defendant's Answer and New Matter and Plaintiff's Reply to same, (*See* Docket No. 1), all of which were originally filed in state court, and finding that the Notice of Removal is deficient because it has not established that there is complete diversity of the parties in this case, (i.e., Festival Fun Parks, LLC, is incorporated in **Delaware** and maintains its principle place of business in California while Defendant Lexington Insurance company is incorporated in **Delaware** and maintains its principle place of business in Massachusetts), and although Plaintiff Festival is a limited liability company, Defendant Lexington, as the removing party, has not alleged any facts demonstrating where Festival's members are citizens and not disclaimed that any of its members are also citizens of Delaware for diversity purposes, *see Zambelli Fireworks Mfg. Co., Inc. v. Wood*, 592 F.3d 412, 419-20 (3d Cir. 2010), yet the Amended Complaint in the underlying action of *Marissa McVay, a minor, by Sherri Wilson, as Parent and Legal Guardian and in her own right v. Festival Fun Parks, LLC*, G.D. No. 11-13064 (C.P. Allghy), states that Festival Fun Parks, LLC is a subsidiary of Palace Entertainment Inc., a

company which is also incorporated in **Delaware**, (Docket No. 1-4 at 12), and further finding that this case lacks jurisdiction over the instant matter due to the fact that both Plaintiff and the remaining Defendant are citizens of Delaware for diversity purposes,

IT IS HEREBY ORDERED that this case is REMANDED to the Court of Common Pleas of Allegheny County pursuant to 28 U.S.C. § 1447(c), forthwith;

IT IS FURTHER ORDERED that the Clerk of Court mail a certified copy of this order to the clerk of the Court of Common Pleas of Allegheny County pursuant to 28 U.S.C § 1447(c);

IT IS FURTHER ORDERED that the Clerk of Court shall mark this case CLOSED.

s/Nora Barry Fischer

Nora Barry Fischer

UNITED STATES DISTRICT JUDGE

cc/ecf: All counsel of record.